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MAY 30 2000

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In re Application of : DECISION ON  
LARSEN et al. :  
Serial No.: 09/445,033 :  
PCT No.: PCT/GB98/01651 :  
Int. Filing Date: 05 June 1998 : PETITION  
Priority Date: 06 June 1997 :  
For: METHOD OF OPERATION OF A : UNDER 37 CFR 1.182  
MULTI-STATION NETWORK :  
:

This decision is in response to applicants' "PETITION TO WITHDRAW NOTICE OF ABANDONMENT" filed 02 March 2000, which is being treated as a petition under 37 CFR 1.182. This is also in response to applicants' "SUPPLEMENT TO PETITION TO WITHDRAW NOTICE OF ABANDONMENT & SUBMISSION OF CORRECTED FORM PCT/IB/332" filed via facsimile on 14 March 2000 and to applicants' request for a refund of the filing fee based upon the subsequent submission of the small entity statement, filed on 18 January 2000.

**BACKGROUND**

On 05 June 1998, applicants filed international application PCT/GB98/01651, which claimed priority of an earlier South African application filed 06 June 1997. Thus, under Article 39(1) and Rule 69.2 of the Patent Cooperation Treaty, the Demand was to be filed by the nineteen month after the priority date or by 06 January 1999. The international search report was prepared by the European International Searching Authority as requested by applicant. A Demand for international preliminary examination was filed with the European Patent Office on 22 December 1998, thereby extending the time for entry into the national stage to 30 months or 06 December 1999.

On 22 January 1999, the International Preliminary Examining Authority (European Patent Office) mailed a Notification of Receipt Demand by Competent International Preliminary

Examining Authority (Form PCT/IPEA/402) notifying applicants that the International Preliminary Examining Authority considers 22 December 1998 the date of receipt of the demand for international preliminary examination and that 22 December 1998 is "the actual date of receipt of the demand by this Authority (Rule 61.1(b))".

On 27 January 1999, a Notification of Election (Form PCT/IB 331) was mailed to the USPTO indicating that the demand was filed on 22 December 1998 and incorrectly indicating the election was not made before the expiration of 19 months from the priority date.

On 01 December 1999, applicant filed a transmittal letter with the United States Patent and Trademark Office requesting entry into the national stage with, *inter alia*, the basic national fee.

On 18 January 2000, applicants filed a transmittal letter along with an acceptable declaration, small entity statement and request for a refund.

On 31 January 2000, a Notification of Abandonment was mailed to applicant indicating that applicants had failed to provide the full basic national fee by 30 months and that "[t]he PCT/IB/331 shows that the demand was not filed in a timely manner, 22 December 1998."

On 02 March 2000, applicants filed the instant Petition to Withdraw Notice of Abandonment with a copy of the Notification of Receipt of Demand by Competent International Preliminary Examining Authority (Form PCT/IPEA/402). On 14 March 2000, applicants filed a submission to supplement their petition along with a copy of a Corrected Version of the International Bureau's notice regarding notification of elected offices (Form PCT/IB/332).

### DISCUSSION

A review of the application file and the papers submitted by applicants indicates that the Notification of Election (Form PCT/IB 331) on its face incorrectly stated that the election was not made before the expiration of 19 months from the priority date. In a separate communication, the International Bureau confirmed that the Demand was filed on 22 December 1998 and that the US was elected.

The time period to enter the national stage in the designated states and regions expired at 30 months from the priority date (PCT Article 39) or on 06 December 1999. Applicants requested entry into the national stage on 01 December 1999, which was timely. A review of the finance records for this application indicates that applicants submitted the proper basic national fee on 01 December 1999. Therefore, the Notification of Abandonment mailed on 31 January 2000 was issued in error and is vacated. Accordingly, the petition for withdrawal of the Notification of Abandonment mailed 31 January 2000 is granted.

With regard to applicants' request for a refund, since the small entity statement filed 18 January 2000 is deemed to meet the requirements of 37 CFR 1.27, a refund of \$640.00 of the basic national fee pursuant to 37 CFR 1.28 (a) and 37 CFR 1.26 is in order and will be credited

to counsel's deposit account No. 12-0400.

**CONCLUSION**

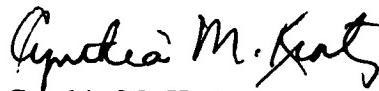
The petition under 37 CFR 1.182 is **GRANTED**.

The Notification of Abandonment mailed on 31 January 2000 is **VACATED**.

Applicants' deposit account no.12-0400 will be credited \$640.00 for the reasons set forth above. The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c) and 102(e) date is 18 January 2000.



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